

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
DECEMBER 19, 2007**

**CALL TO
ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Michael Mower, Randy Toavs, Gordon Cross, Gene Dziza, Kim Fleming, Frank DeKort, Kathy Robertson, and Barry Conger. Don Hines had an excused absence.

Andrew Hagemeyer, Eric Giles, and Jeff Harris represented the Flathead County Planning & Zoning Office.

There were approximately 20 people in the audience.

PUBLIC REVIEW

Gene Dziza reviewed the public hearing process.

**APPROVAL OF
MINUTES**

Toavs made a motion seconded by Conger to approve the November 14, 2007 meeting minutes.

The motion was carried by quorum.

**PUBLIC
COMMENT
(not related to
agenda items)**

None.

**TAYLOR/
SPITLER ZONE
CHANGE
(FZC 07-11)**

A Zone Change request in the Bigfork Zoning District by Sarah Taylor and Jack and Barbara Spitler, from SAG-10 (Suburban Agricultural/10 acres), to SAG-5 (Suburban Agricultural/5 acres). The property is located at 1314 McCaffery Road and contains 25.54 (Taylor-12.08 and Spitler-13.46) acres.

STAFF REPORT

Andrew Hagemeyer reviewed Staff Report FZC-07-11 for the Board.

**BOARD
QUESTIONS**

Cross asked if BLUAC is obligated to review zone changes under the same 12 criteria the Planning Board is.

Harris said they aren't obligated to.

Hagemeyer said BLUAC was given the same presentation as the Board. BLUAC got a more general presentation because they

don't get a copy of the staff report. They also consider the applicants testimony in making their decision.

Robertson asked if there was any indication of combining the properties.

Hagemeier said there was no indication of that.

Conger asked if the only reason BLUAC recommended denial was because of the lack of having a plan for one of the properties.

Hagemeier thinks the zone change complies with the Bigfork Master Plan. When Staff evaluates zone changes they don't take into consideration the future plans of the property. They expect maximum build-out and review based on that.

Robertson said historically the Planning Board has not considered the use other than zoning; it's irrelevant to the decision.

Hagemeier said you have to look at the entire range of possibilities when doing a zone change.

APPLICANT PRESENTATION

Eric Mulcahy, of Sands Surveying, represented the applicants. He passed out comment letters from surrounding neighbors and explained the proposal.

Conger asked about an adjacent parcel.

Mulcahy said they were initially going to participate in the zone changed but decided not to pursue it.

PUBLIC COMMENT

John Wade, 300 Echo Lake Rd, said his family has about 45 acres in the area. He is opposed to the change unless all of the area is going to get changed. He said if they do this zone change they should be prepared to change all of the surrounding properties.

Stan Converse, Crane Mtn. Road in Bigfork, said the zone change makes sense and he's in support.

Jerry Bygren, 1314 McCaffrey Rd, talked about a zone change he wanted to do but Staff said changing one property would be "spot zoning."

**APPLICANT
REBUTTAL**

None.

**STAFF
REBUTTAL**

None.

Fleming asked about a neighboring SAG-5 property and how it came to be.

Hagemeier thought it may have had to do with Ten Acres Ranch subdivision and may have been a zone change to accommodate the subdivision.

MOTION F.O.F.

Cross made a motion seconded by Robertson to adopt Staff Report FZC-07-07 as findings-of-fact.

**BOARD
DISCUSSION**

None.

**ROLL CALL
F.O.F.**

On a roll call vote the motion passed unanimously.

**MOTION TO
APPROVE**

Robertson made a motion seconded by Conger to adopt Staff Report FZC-07-11 and recommend approval to the Board of County Commissioners.

**BOARD
DISCUSSION**

Fleming discussed why she wasn't in favor of the zone change.

Cross talked about the area being agricultural as designated by the Bigfork plan. He said there's a big difference between SAG-5 and AG-40 and asked for Staff comment.

Hagemeier said there is a difference between a SAG and AG designation. He said the area is mapped as an agricultural area and is zoned both SAG & AG to match that designation on the Bigfork future land use map.

Harris said, in Staff's mind, a SAG designation is residential. He mentioned the Bigfork plan and said the land use map isn't even done yet. If you look at the existing surrounding zoning it's consistent with this proposal; that's what the recommendation was based on.

Mower asked when the initial zoning designations were made.

Hagemeier said zoning was adopted in 1993.
Mower asked if it was fair to say there's been a fundamental change in the character since then.

Harris said yes and continued to talk about the area surrounding this proposal.

Hagemeier said the area is transitional.

Conger read the definition of the SAG-5 designation. He agreed with Kim about rezoning the area wholly instead of doing it one or two lots at a time.

Hagemeier pointed out there is some there is industrial zoning to the south by Echo Lake Café across the street from the school.

Robertson said Echo Lake Road has been built around rapidly.

**ROLL CALL
TO APPROVE**

On a roll call vote the motion passed 5-3 with Conger, Fleming, and Mower dissenting.

**GLACIER
HAVEN RV
PARK
(FPP 07-34)**

A request by Randy McMillan, for Preliminary Plat approval of Glacier Haven RV Park, a subdivision for lease with 19 RV spaces and 1 single-family residence on 9.413 acres. Lots in the subdivision are proposed to have public water and sewer systems. The property is located at 14297 US Highway 2 East in Essex.

STAFF REPORT

Eric Giles reviewed Staff Report FPP 07-34 for the Board.

**BOARD
QUESTIONS**

Fleming asked about getting a letter on paving the internal road. She asked if staff talked to the applicants about paving or chip-sealing.

Giles said he didn't talk to them about paving because the area is so remote and the use would be seasonal. He said there may be some justification for paving but chip-seal is something that may be appropriate.

Cross asked about subdivision regulations for internal roads of RV parks.

Giles said they are allowed to have a 12-foot wide travel surface for the 17 lots they're proposing.

Cross asked about utility easements.

Giles said there is a railroad track but he didn't notice any utility easements.

Robertson asked, for the 100th and last time, for a clearer vicinity map.

Giles said there is one in the staff report.

Robertson said there used to be a vicinity map on the plat and reiterated how important it is.

Mower asked if there's a difference between seasonal and year-round.

Giles said the impacts are different. If it was a year-round facility you would want it paved. There is a substantial difference between seasonal and year-round.

Mower asked if there is anything that would stop people from using it year-round.

Giles said probably snow and ice.

Mower said he could point out a number of RV parks, within a short drive of here, that have year-round residents. Once you have sewer, water, and power you will find low-cost housing.

Giles would be very challenged to think that this RV park could provide low-cost housing based on its location. He said people would have to travel far for local services.

Mower disagreed and said he knows of places far out like this one with year-round residents.

Giles said zoning does not stipulate what is a year-round or seasonal use. He said the landowner will decide when and how long people can stay there. He also said this is something the Board can regulate.

Cross was confused as to whether this is a subdivision.

Giles said it's more or less of a plan review, no lots are created and it's not recorded.

Harris talked about a revised preliminary plat and said it's to make sure conditions are met.

Mower asked what the distance is around the loop.

The Board and staff discussed the length of internal roads.

**APPLICANT
PRESENTATION**

Randy McMillian, said they have a business and café located next to this project. He said it's a different world up there; it's about nine months of winter and 3 months of summer. There is a power line easement, which he pointed out on the plat map. He met with the power company who had no issues with them building a road and utilizing part of the easement. The school bus turns around at Glacier Haven Inn because he keeps it plowed; it's a service they provide to the community. He talked about paving and said the most desirable camping places are National Park campgrounds and that's the feel they're trying to achieve. He said they will have full-services to offer and there are only two other campgrounds in the area. He said the natural red rock that's out there is far less dusty so it shouldn't be a problem. He said they have about five feet of snow up there in the winter so a year-round facility isn't feasible plus it's their family property and they like to utilize it in the off-season.

**BOARD
QUESTIONS**

Cross asked if there was any consideration of hooking up the house to the public system for the RV park.

McMillian said the house is too far away, plus the home will be a year-round use where the public system will be used seasonal. A smaller system for the home will be easier to maintain.

Cross asked about the guest-service building.

McMillian said the guest service building is where his folks will be working. It's where people check in.

**AGENCY
COMMENTS**

None.

**PUBLIC
COMMENT**

None.

**STAFF
REBUTTAL**

Giles talked about maintaining a landscape buffer along the highway but outside of the right-of-way. He said if you go up there now there are trees everywhere. He suggested keeping existing trees except where the RV spots are going.

Harris said the Board may want to consider paving an “apron” into the park for dust and safety of the vehicles turning into the park.

**APPLICANT
REBUTTAL**

None.

MOTION F.O.F.

DeKort made a motion seconded by Robertson to adopt Staff Report FPP-07-34 as findings-of-fact.

**BOARD
DISCUSSION**

Cross asked about showing the easements on the plat.

Harris said there has to be a recorded easement somewhere.

McMillian talked to a guy at Flathead Electric who said they don’t have anything that shows the easement. There isn’t anything established to say how much footage they have; they just need to be able to access the power lines for maintenance.

The board and staff discussed getting a recorded easement and the possibility of adding a condition to that effect.

ADD F.O.F. #12

DeKort made a motion seconded by Robertson to add F.O.F. #11 to read: *Flathead Electric Co-op has a non-recorded easement through the property having power poles and lines already in place. Northwestern Energy has a natural gas line in the southeast corner of the property.*

The motion was carried by quorum.

**ROLL CALL
F.O.F.**

On a roll call vote the motion passed unanimously.

**MOTION TO
APPROVE**

DeKort made a motion seconded by Robertson to adopt staff report FPP 07-34 and recommend approval to the County Commissioners.

**MOTION
ADD COND #8**

Fleming made a motion seconded by Robertson to require the applicant to pave 20-ft in from roadway to MDT standards.

**BOARD
DISCUSSION**

Fleming said putting pavement off the street will keep the dust on his property.

Robertson said the applicant's comment about the red rock dispelled any hesitation she had about not putting gravel there.

The board and staff continued to discuss paving and graveling.

Fleming's motion was withdrawn.

**MOTION
ADD COND #8**

Cross made a motion seconded by Robertson to add condition #8 to read: *The entire approach from Hwy 2 must be built to Montana Department of Transportation standards and paved from the highway to the property line.*

**BOARD
DISCUSSION**

The board continued to discuss how much paving the applicant should be required to do.

**ROLL CALL
ADD COND #8**

On a roll call vote the motion passed 5-3 with Robertson, Toavs, and Conger dissenting.

**MOTION
ADD COND #9**

DeKort made a motion seconded by Fleming to add condition #9 to read: The applicant shall file a revised preliminary plat with the Flathead County Planning and Zoning Office.

**ROLL CALL
ADD COND #9**

On a roll call vote the motion passed unanimously.

**MOTION
ADD COND #10**

DeKort made a motion seconded by Fleming to add condition #10 to read: *A minimum 30 ft. natural landscape buffer shall be maintained along Hwy 2.*

**ROLL CALL
ADD COND #10**

On a roll call vote the motion passed unanimously.

**MOTION
EASEMENTS
FORMALIZED**

Cross made a motion seconded by DeKort to read: Existing easements with Flathead Electric and Northwestern Energy shall be formalized, recorded, and reflected on the revised preliminary plat.

**BOARD
DISCUSSION**

The board and staff discussed indentifying the easements and how they should be reflected.

**ROLL CALL
TO APPROVE**

On a roll call vote the motion passed unanimously.

**BOARD
ZONE CHANGE
(FZC 07-10)**

A Zone Change request in the Lower Valley Zoning District by David and Alaina Board, from AG-80 (Agricultural/80 acres), to AG-20 (Agricultural/20 acres). The property is located at 1490 Lower Valley Road and contains approximately 53 acres.

STAFF REPORT

Eric Giles reviewed Staff Report FZC 07-10 for the Board.

He read a December 18th comment letter from David Heine of 2000 Lower Valley Road.

**BOARD
QUESTIONS**

Robertson said the maps don't indicate where Ashley Creek runs or where the riparian area is.

Giles pointed out on the map.

Fleming asked how two houses got on one lot.

Giles mentioned a mortgage survey and said the applicant would elaborate. He reiterated it's zoned AG-80.

Fleming talked about surrounding zoning and asked about a 10-acre parcel.

Cross asked about an AG-80 property and if it's a separate parcel.

Giles said everything on the map in yellow is being rezoned. He said the applicant's intention is to be able to separate the houses that are already in place.

Mower wanted to know if any other houses would be built if the property gets split.

Giles said no.

**APPLICANT
PRESENTATION**

Narda Wilson, 184 Midway Drive, represented the applicant. She talked about the history of the parcel and explained the mortgage survey. She talked about the development pattern in the area. She asked the Board to adopt the findings-of-fact and recommend approval.

Toavs asked Wilson to point out which parcels they are asking to

be rezoned.

Cross asked about the history of the two houses on one property.

Wilson wasn't sure; she said it probably happened before zoning.

Fleming asked if he bought the land with both houses.

The applicant said he did.

Mower said the applicant can't sell as two houses, only with one lot and two houses.

Wilson said he has been trying to sell it as is.

David Board said their intent is to retain what's there and explained the reason for the request.

**AGENCY
COMMENTS**

None.

**PUBLIC
COMMENT**

None.

**STAFF
REBUTTAL**

None.

**APPLICANT
REBUTTAL**

None.

**MOTION
F.O.F.**

Toavs made a motion seconded by Conger to adopt Staff Report FZC 07-10 as findings-of-fact.

**ROLL CALL
F.O.F.**

On a roll call vote the motion passed unanimously.

**MOTION TO
APPROVE**

Toavs made a motion seconded by Fleming to adopt Staff Report FZC 07-10 and recommend approval to the Board of County Commissioners.

**ROLL CALL
TO APPROVE**

On a roll call vote the motion passed 5-3 with Robertson, Mower, and Conger dissenting.

**GRAVEL TEXT
AMENDMENT
(FZTA 07-04)**

A request by Flathead County for a Zoning Text Amendment to Sections 3.03.020 (9) and 4.10.010 of the Flathead County Zoning Regulations which addresses the application of zoning regulations to sand and gravel extraction operations and associated asphalt and concrete batch plants. The revised language would read:

3.03.020 (9) “For the purpose of interpreting the intent of Section 76-2-209 MCA, which addresses the application of zoning regulations for sand and gravel extraction operations and associated asphalt and concrete batch plants, any zoning district or use district including a planned unit development which provides for single family dwellings, resort, 1-4 plex or similar residential use categories as a permitted use is considered residential. In those districts the zoning regulations adopted and provided for herein shall specifically apply to sand and gravel extraction and asphalt or concrete batch plant use except that AG-40 and AG-80 are not considered residential zones.”

4.10.010 Requirements contained in this section shall not exempt the owner or operator of an extractive industry from compliance with the Montana Open Cut Mining Act, 82-4-401 et seq, M.C.A., as administered by the Montana Department of Environmental Quality, Helena, Montana but shall be in addition to the requirements of said act. Prior to the approval by the Board of a Conditional Use Permit, a reclamation contract shall be signed and approved by the owner or operator and the Montana Department of Environmental Quality.

STAFF REPORT

Jeff Harris reviewed staff report FZTA 07-04 for the Board.

**BOARD
QUESTIONS**

Fleming reiterated what would be changing. She asked if this would provide any clarification.

Harris said the rules will be clearer. The gravel industry is looking for clear guidance and homeowners are looking for clear protection.

Mower asked why they didn't just limit gravel pits to AG-40 and AG-80 properties. He asked why AG-20 was included.

Harris said there's roughly 18,000 acres of AG-20 and there are probably gravel resources somewhere on those 18,000 acres. He said there are landowners that may own 300-400 acres within AG-20. He wanted to provide some flexibility.

Toavs said this would give the Board an opportunity to turn down something in an AG-20 zone and condition something in

an AG-40 or 80.

Fleming asked for further clarification.

Cross asked about the italicized portion of the staff report and asked what's changing and what stays. He said the change seems benign and wondered what confusion it's clearing up.

Harris explained.

**PUBLIC
COMMENT**

Jerry Nix, 43 Sunrise Drive, was one of the six members on the gravel advisory committee. He discussed Montana code and whether or not constitution of having clean air is more important than people being able to harvest natural resources. He doesn't agree with 76-2-209 but as for now it's the law. He said the zoning regulations in Flathead County are archaic.

Bruce Tutvedt, 2335 West Valley Drive, was on the original gravel committee also. He said Jerry pretty much summed it up. He talked about the "catch 22" in regard to DEQ and local land use permitting. He said he had to go before the Board 4 times because of it. He said this text amendment is a good start and provides some predictability.

Carrie Hagreburg, of Montana Contractors Association, talked about the level of review a new gravel operation has to go through at both State and County levels. He said there's always a local group who don't want a new gravel pit, period. He thinks the proposed amendment is a good start and he commended the people who were instrumental in putting it together. He talked about extractive industries and County definitions.

Gary Krueger, 805 Church Drive, supports this zoning text amendment. He said he has some questions about the wording and explained how it affects the process.

John Shogren, of Goose Bay Equipment, concurred with previous speakers.

Mark Schwagger, West Valley Drive, agreed with Krueger about watching the wording. He said the wording "could not be prohibited" could tie the County's hands in the future.

Emily Tutvedt, 2335 West Valley Drive, said to comply with the

intent of current State legislation, it's important that we acknowledge that AG-40 and AG-80 are not residential uses. If the Planning Board could acknowledge those things, it could narrow the scope of the debate and save everyone a lot of time. She said going through the process was a huge drain on her family and the neighbors as well.

**STAFF
REBUTTAL**

None.

MOTION F.O.F.

DeKort made a motion seconded by Toavs to adopt Staff Report FZTA 07-04 as findings-of-fact.

**BOARD
DISCUSSION**

Conger thought some of the wording was improper English and wasn't sure how to correct it. He read the parts of the amendments that weren't clear to him.

**ROLL CALL
F.O.F.**

On a roll call vote the motion passed unanimously.

**MOTION TO
APPROVE**

DeKort made a motion seconded by Toavs to adopt Staff Report FZTA 07-04 and recommend approval to the Board of County Commissioners.

**BOARD
DISCUSSION**

Cross discussed the use of a comma in the amendment and about resort zoning districts.

Harris discussed the resort zones.

The Board and Staff continued to discuss wording.

Cross talked about the Growth Policy implementation plan. He said it calls for a Sand & Gravel plan and talked about the process.

Dziza said the resources need to be identified and protected.

Harris talked about a County Capital Improvement Plan (*CIP*). He said they went through all the plans in the Growth Policy and incorporated them into the CIP, including mineral extraction. Staff used their judgment to prioritize and the gravel plan floated to the bottom because there were more important issues at the time such as water quality and the transportation plan.

Dziza talked about the location of gravel pits and impact. He said zoning doesn't always relate to the impact. He said the groups

seem to be coming to a general consensus. He agreed with Nix about consistency.

Mower asked if there is an issue with the wording “sand and gravel extraction” and “extractive industry.”

Nix talked about a supreme court case ruling in Missoula that affects all counties.

Harris said there’s not a lot of difference between the two.

ROLL CALL

On a roll call vote the motion passed unanimously.

OLD BUSINESS

Harris talked about Desert Mountain View subdivision. There was staff error; therefore the applicant was given the opportunity to come back before the Planning Board. The applicant chose to continue on to Commissioners. A letter will go in the file to that effect.

Harris and the Board discussion being up to speed on upcoming meetings.

Cross said it would be helpful to have other meetings, other than regular Wednesday nights, on the dockets as well. He said those tend to fall through the cracks and it would be nice to have those on the same calendar.

NEW BUSINESS

Dziza honor Robertson with a plaque for her 6 years of service. He also thanked Conger for his time on the Board. He talked about cutting out some of the Tuesday/Thursday meetings. He said the Board is supposed to meet on the second Wednesday of each month. He would like to see the meetings cut back with reasonable agendas.

Fleming talked about when she wanted to resign a year and a half ago and said the number of meetings was one of the problems. She talked about having the Planning Office turn applications away to keep things reasonable. By not accepting applications no timeline will start. The Board shouldn’t have to meet multiple times a month to keep up with the workload.

Mower said the way it’s structured, it takes that much time.

Robertson said there is a lot more discussion now about irrelevant things. A lot of time is spent that isn’t spent on the

task-at-hand.

Harris said for larger projects, staff is asking people to waive the timeline during the pre-application meeting. He said one planner will be assigned to a large project and their other workload will be lessened so they can focus on the large project; by the time it gets to the Board it should be streamlined. He said there are some procedural things that could be done to make things shorter.

Dziza agreed with Kim about limiting the number of applications.

Harris said the Planning office accepts applications once per month. Staff tries to balance the meetings but the specialty meetings take up a lot of time. He understands the Board is burnt out so he talked about trying to keep meetings on Wednesday nights.

Conger said the problem is there are a ton of applications to be considered. He said the Board may talk too much and Staff may take too long to present but that's only a small part of it.

Harris said 2006 there was the Growth Policy and then after that Subdivision regulations, which took up a lot of time. He said in the coming year there should be a little more time to breathe. There are neighborhood plans in the works but they won't come all at once. He went over the new Planning Board appointees.

ADJOURNMENT The meeting was adjourned at approximately 9:35 p.m. on a motion by Robertson seconded by Fleming. The next meeting will be held at 6:00 p.m. on January 9, 2008.

Gene Dziza, President

Jill Goodnough, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 11/14/08